

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DEUTSCHE BANK NATIONAL TRUST CO.,	:	Case No. 1:05-cv-2680
	:	
Plaintiff,	:	
	:	JUDGE KATHLEEN O'MALLEY
v.	:	
	:	
EDWARD URBANEK, <i>et al.</i> ,	:	<u>ORDER</u>
	:	
Defendants.	:	

This matter arises on Plaintiff's unopposed *Motion for Summary Judgment and Decree in Foreclosure* (Doc. 19), in which Plaintiff seeks judgment against Defendant Edward Urbanek. Urbanek has not responded to Plaintiff's motion. For the reasons outlined briefly below, Plaintiff's motion is **GRANTED**.

This foreclosure case was filed in this Court on November 16, 2005. Following Urbanek's failure timely to answer the Complaint, and upon application by the Plaintiff, the Clerk of Court entered a notice of default on December 13, 2005. Therafter, Plaintiff filed a motion for default judgment (Doc. 11), at which time the Court scheduled a hearing for January 30, 2006 (Doc. 12).

Urbanek failed to appear at the January 2006 default judgment hearing; instead, his mother appeared on his behalf.<sup>1</sup> The parties – Urbanek though his mother – conferred in an attempt to resolve their dispute. So as to afford them time to pursue those efforts, the Court reset the default judgment hearing for March 7, 2006.

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<sup>1</sup> Defendant Urbanek's informed the Court that she had been granted power of attorney to act on her son's behalf.

On March 5, 2006, attorney Steven Ott, Esq., entered an appearance on behalf of Urbanek and sought – and was granted – leave to file an Answer *instanter* (Docs. 16 and 17).<sup>2</sup> Accordingly, the Plaintiff's application and motion for default judgment was mooted and the March 7, 2006 default judgment hearing was cancelled.

Presumably, the parties were unable to resolve there dispute because, on March 24, 2006, the Plaintiff filed the instant motion for summary judgment. Despite the Court's willingness to postpone the initial default judgment hearing and, thereafter, grant Urbanek leave to answer the Complaint so as to defend himself in this litigation, Urbanek has now failed even to acknowledge, much less substantively respond, to the Plaintiff's motion for summary judgment. Now six months later, the parties are in the same substantive position they were in January 2006 – the Plaintiff claims Urbanek is in default of a note and mortgage, and Urbanek is unresponsive.

Because the Plaintiff's unopposed motion is meritorious on its face, and considering the fact Urbanek's requests thus far have served only to delay this case at the Plaintiff's expense, Plaintiff's *Motion for Summary Judgment and Decree in Foreclosure* (Doc. 19) is **GRANTED** as to liability. Plaintiff **SHALL RE-FILE** a proposed judgment entry (revised, if necessary) as to damages by no later than **August 1, 2006**. Within five (5) days after Plaintiff files its proposed judgment entry, Urbanek **MAY FILE** objections to that proposal. If such objections are filed, the Court then will consider whether a hearing on damages is necessary. If no objections are filed, the Court will consider Plaintiff's proposal as unopposed.

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<sup>2</sup> Of note, Urbanek's Answer (Doc. 17 – attachment A thereto) is boilerplate, asserting only generic denials based on a lack of knowledge. Such denials are asserted even in response to portions of the Complaint that clearly are not in dispute or otherwise could be denied outright. Urbanek's Answer further evidences his unwillingness substantively to participate in this proceeding.

Further, as noted above, Plaintiff's application and motion for default judgment (Docs. 7 and 11) are hereby **DENIED as moot.**

**IT IS SO ORDERED.**

s/Kathleen M. O'Malley  
**KATHLEEN McDONALD O'MALLEY**  
**UNITED STATES DISTRICT JUDGE**

**Dated: July 18, 2006**